

116TH CONGRESS <i>1st Session</i>	HOUSE OF REPRESENTATIVES	REPORT 116-
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SAVE THE INTERNET ACT OF 2019

APRIL --, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PALLONE, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

VIEWS

[To accompany H.R. 1644]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R.1644) to restore the open internet order of the Federal Communications Commission, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Save the Internet Act of 2019”.

SEC. 2. RESTORATION OF OPEN INTERNET ORDER.

(a) REPEAL OF RULE.—

(1) IN GENERAL.—The Declaratory Ruling, Report and Order, and Order in the matter of restoring internet freedom that was adopted by the Commission on December 14, 2017 (FCC 17–166), shall have no force or effect.

(2) PROHIBITION ON REISSUED RULE OR NEW RULE.—The Declaratory Ruling, Report and Order, and Order described in paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such Declaratory Ruling, Report and Order, and Order may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) RESTORATION OF REPEALED AND AMENDED RULES.—The following are restored as in effect on January 19, 2017:

(1) The Report and Order on Remand, Declaratory Ruling, and Order in the matter of protecting and promoting the open internet that was adopted by the Commission on February 26, 2015 (FCC 15–24).

(2) Part 8 of title 47, Code of Federal Regulations.

(3) Any other rule of the Commission that was amended or repealed by the Declaratory Ruling, Report and Order, and Order described in subsection (a)(1).

(c) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(2) RESTORED AS IN EFFECT ON JANUARY 19, 2017.—The term “restored as in effect on January 19, 2017” means, with respect to the Declaratory Ruling and Order described in subsection (b)(1), to permanently reinstate the rules and legal interpretations set forth in such Declaratory Ruling and Order (as in effect on January 19, 2017), including any decision (as in effect on such date) to apply or forbear from applying a provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.) or a regulation of the Commission.

(3) RULE.—The term “rule” has the meaning given such term in section 804 of title 5, United States Code.

SEC. 3. EXCEPTION TO ENHANCEMENT TO TRANSPARENCY REQUIREMENTS RELATING TO PERFORMANCE CHARACTERISTICS AND NETWORK PRACTICES FOR SMALL BUSINESSES.

(a) IN GENERAL.—The enhancements to the transparency rule relating to performance characteristics and network practices of the Commission under section 8.3 of title 47, Code of Federal Regulations, as described in paragraphs 165 through 184 of the Report and Order on Remand, Declaratory Ruling, and Order in the matter of protecting and promoting the open internet that was adopted by the Commission February 26, 2015 (FCC 15–24), shall not apply to any small business.

(b) SUNSET.—Subsection (a) shall not have any force or effect after the date that is 1 year after the date of the enactment of this Act.

(c) REPORT BY FCC.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains the recommendations of the Commission (and data supporting such recommendations) regarding—

(1) whether the exception provided by subsection (a) should be made permanent; and

(2) whether the definition of the term “small business” for purposes of such exception should be modified from the definition in subsection (d)(3).

(d) DEFINITIONS.—In this section:

(1) BROADBAND INTERNET ACCESS SERVICE.—The term “broadband Internet access service” has the meaning given such term in section 8.2 of title 47, Code of Federal Regulations.

(2) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(3) SMALL BUSINESS.—The term “small business” means any provider of broadband Internet access service that has not more than 100,000 subscribers aggregated over all the provider’s affiliates.

[HOUSE REPORT 166-34 TO ACCOMPANY H.R. 1644]

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

PURPOSE AND SUMMARY

H.R. 1644, the “Save the Internet Act”, was introduced on March 8, 2019, by Rep. Doyle (D-PA), and referred to the Committee on Energy and Commerce. H.R. 1644, the “Save the Internet Act,” repeals the Federal Communications Commission’s (FCC) Restoring Internet Freedom Order, restoring as of January 19, 2017, the FCC’s 2015 Net Neutrality Order, 47 Code of Federal Regulations Part 8, and any other rule that the Restoring Internet Freedom Order modified or repealed. This legislation would codify the FCC’s 2015 Open Internet Order.

BACKGROUND AND NEED FOR LEGISLATION

In 2015, the FCC adopted carefully-tailored rules to prevent specific practices that are harmful to internet openness—blocking, throttling, and paid prioritization—and a strong standard of conduct designed to prevent the deployment of new practices that would harm Internet openness.¹ The 2015 Order adopted protections preventing internet service providers (ISPs) from unreasonably interfering with, or unreasonably disadvantaging consumers’ access to the content of their choice (*i.e.*, the “general conduct rule”).² The FCC also enhanced the disclosures required under its existing transparency rule,³ and included a complaint process for resolving interconnection disputes that implicate protections in the Communications Act.⁴ In doing so, the FCC applied all of these protections equally to mobile and wired broadband service.⁵

Through the Order, the FCC applied certain longstanding Commission authority to broadband internet access service,

¹ Federal Communications Commission, Protecting and Promoting the Open Internet, Report and Order, GN Docket No. 14-28, FCC 15-24, at ¶ 4 (rel. Mar.12, 2015) (2015 Order).

² *Id.* at ¶ 21.

³ *Id.* at ¶ 154.

⁴ *Id.* at ¶ 29.

⁵ *Id.* at ¶ 92.

including Sections 201 and 202 of the Communications Act, giving the Commission authority to prevent unjust, unreasonable, and discriminatory network practices.⁶ The FCC applied certain provisions to support and fund broadband access for low-income Americans, those living in rural areas, and those living with disabilities.⁷ Beyond specific, identified protections,⁸ the FCC opted for a light-touch regulatory regime by forbearing from applying the majority of common carrier provisions in the Communications Act, including provisions relating to rate setting and mandatory last-mile unbundling.⁹

Opponents of these network neutrality protections challenged the 2015 Order in court.¹⁰ In June 2016, the U.S. Court of Appeals for the D.C. Circuit upheld the 2015 Order in its

⁶ *Id.* at ¶ 292.

⁷ *Id.* at ¶ 456-57 (noting the FCC's application of Section 706 of the Telecommunications Act of 1996 and the FCC's application, in part, of Section 254 of the Communications Act of 1934); *See* Federal Communications Commission, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 11-161, at ¶ 66 (rel. Nov. 18, 2011) ("We also have independent authority under Section 706 of the Telecommunications Act of 1996 to fund the deployment of broadband networks."); *See* Federal Communications Commission, Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and Order, and Order on Reconsideration, WC Docket No. 11-42, FCC 16-38, at ¶ 30-43, (rel. Apr. 27, 2016) ("noting the FCC's authority under Section 254 of the Communications Act of 1934 and Section 706 of the Telecommunications Act of 1996 to authorize the inclusion of broadband internet access service as a supported service in the Lifeline program").

⁸ *See* 2015 Order at ¶ 456.

⁹ *See id.* at ¶ 382 (noting, "there will be no rate regulation, no unbundling of last-mile facilities, no tariffing, and a carefully tailored application of only those Title II provisions found to directly further the public interest in an open Internet.").

¹⁰ *United States Telecom Ass'n v. FCC*, 825 F.3d 674, 689 (D.C. Cir. 2016).

entirety.¹¹ Last November, the Supreme Court declined a petition to review the case, which effectively validated the Circuit Court's opinion.¹²

Subsequently, the FCC adopted a new order in December 2017, which took effect in May 2018 (RIF Order) that effectively repealed the 2015 Order.¹³ In the RIF Order, the FCC repealed its net neutrality protections, and, in the process, disclaimed many of its own authorities that have been central to supporting broadband access and adoption.¹⁴

The repeal of the 2015 Order has had broad implications for consumers and small businesses accessing the internet. By repealing the network neutrality protections, the FCC gave up its ability to stop broadband internet access providers from blocking, throttling, and pay-for-priority arrangements. It also gave up its ability to address future discriminatory, unreasonable, or unjust network practices.¹⁵ It further gave up authority to protect people with disabilities to ensure their access to functionally equivalent broadband service.¹⁶ The repeal also did away with provisions that ensure ISPs fair access to utility poles, ducts, conduits, and rights-of-way.¹⁷ Finally, the repeal undermined the FCC's authority to fund rural broadband access and adoption efforts for low-income individuals by relinquishing some of the FCC's key authorities for accelerating the deployment and adoption of broadband.¹⁸

¹¹ *Id.* at 744.

¹² *Supreme Court Won't Hear Net Neutrality Challenges*, New York Times (Nov. 5, 2018).

¹³ Federal Communications Commission, Restoring Internet Freedom, Declaratory Ruling, Report and Order, and Order, WC Docket No. 17-108, FCC 17-166, (rel. Jan. 4, 2018) (RIF Order).

¹⁴ *Id.* at ¶ 239.

¹⁵ 2015 Order at ¶ 15-24.

¹⁶ Compare 2015 Order at ¶ 468 with RIF Order at ¶ 21.

¹⁷ Compare 2015 Order at ¶ 478 with RIF Order at ¶ 21.

¹⁸ RIF Order at ¶ 268.

In the past two years, the lack of FCC authority over broadband and strong network neutrality protections left consumers without redress and left ISPs free to implement practices contrary to the public interest. At the same time, the increased ISP broadband network investment that was a driving reason for the RIF Order failed to materialize.¹⁹ H.R. 1644 builds upon the common-sense work of the 2015 Order by restoring and thereby locking in place its network neutrality protections and forbearances. This legislation provides market certainty and ensures that the internet will remain free and open.

COMMITTEE HEARINGS

For the purposes of section 103(i) of H.Res.6 of the 116th Congress—

- (1) the following hearing was used to develop or consider H.R.1644:

The Subcommittee on Communications and Technology held a legislative hearing on March 12, 2019 to consider the H.R. 1644, the “Save the Internet Act” entitled “Legislating to Safeguard the Free and Open Internet.” The Subcommittee received testimony from:

- Francella Ochillo, Vice President of Policy and General Counsel, National Hispanic Media Coalition;
- Matt Wood, Vice President of Policy and General Counsel, Free Press Action;
- Gregory Green, Chief Executive Officer, Fatbeam; and
- Robert M. McDowell, Senior Fellow, Hudson Institute, Partner, Cooley LLP.

- (2) the following related hearings were held:

The Subcommittee on Communications and Technology held a hearing on February 7, 2019, entitled “Preserving an Open Internet for Consumers, Small Businesses, and Free Speech.” At the hearing, the Subcommittee on Communications and Technology considered the effects of the 2017 repeal of the 2015 Order, and why restoring the 2015 Order will reduce uncertainty and promote free speech. The Subcommittee received testimony from:

- Denelle Dixon, Chief Operating Officer, Mozilla;

¹⁹ *Broadband Groups Cut Capital Expenditure Despite Net Neutrality Win*, Financial Times (Feb. 7, 2019).

- Joseph Franell, Chief Executive Officer, Eastern Oregon Telecom;
- Jessica González, Vice President of Strategy and Senior Counsel, Free Press and Free Press Action Fund;
- Ruth Livier, Actress, Writer, and UCLA Doctoral Student;
- Tom Wheeler, Fellow, Brookings Institution; and
- Michael Power, Chief Executive Officer, NCTA – the Internet & Television Association President.

COMMITTEE CONSIDERATION

H.R. 1644, the “Save the Internet Act of 2019”, was introduced on March 8, 2019, by Rep. Doyle (D-PA), and referred to the Committee on Energy and Commerce. The bill was referred to the Subcommittee on Communications and Technology on March 9, 2019. Following legislative hearings, the Subcommittee met in open markup session on H.R. 1644 on March 26, 2019, pursuant to notice, for consideration of the bill. Subsequently, the Subcommittee on Communications and Technology agreed to a motion by Mr. Doyle, Chairman of the Subcommittee, to favorably forward H.R. 1644 to the full Committee on Energy and Commerce without amendment.

The full Committee met in open markup session, pursuant to notice, on April 3, 2019, to consider H.R. 1644. At the conclusion of consideration and markup of the bill, the Committee on Energy and Commerce agreed to a motion by Mr. Pallone, Chairman of the Committee, to order favorably reported H.R. 1644, amended, to the House.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list each record vote on the motion to report legislation and amendments thereto. The Committee advises that there were 13 record votes taken on H.R. 1644, including a motion by Mr. Pallone ordering H.R. 1644 favorably reported to the House, amended. The motion on final passage of the bill was approved by a record vote of 30 yeas to 22 nays. The following are the record votes taken during Committee consideration, including the names of those members voting for and against:

COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 1

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Walden, **No. 1a**, relating to the FCC ability to adopt rules or provision that had been forborne previous since the 2015 Order.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 23 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					

Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 2

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Doyle, **No. 1b**, to add at the end Sec. 3 that exempts from the enhanced transparency requirements ISPs with 100,000 or fewer subscribers, aggregated across the provider’s affiliates, for one year.

DISPOSITION: **AGREED TO** by a roll call vote of 29 yeas to 22 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus			
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise			
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger		X	
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long		X	
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy				Rep. Mullin		X	
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						

Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O'Halleran	X						

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COMMITTEE ON ENERGY AND COMMERCE
116TH CONGRESS
ROLL CALL VOTE # 3

BILL: H.R. 1644, the "Save the Internet Act of 2019"

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Kinzinger, **No. 1c**, prohibiting the FCC from regulating the rates charged for broadband Internet access service.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 20 yeas to 28 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky				Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis			
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores			
Rep. Schrader		X		Rep. Brooks			
Rep. Kennedy		X		Rep. Mullin			
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters				Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116TH CONGRESS
ROLL CALL VOTE # 4

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to add at the end Sec. 3 to prohibit the FCC from controlling the contents of communications on the internet, offered by Mrs. Rodgers, **No. 1d.**

DISPOSITION: **NOT AGREED TO** by a roll call vote of 23 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis			
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loebsack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					

Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 5

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Flores, No. 1e, that adds a section 3 to prohibit the FCC from initiating or assessing fees on providers of broadband Internet access service.

DISPOSITION: NOT AGREED TO by a roll call vote of 21 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus			
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson			
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					

Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 6

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Latta, **No. 1g**, prohibits the FCC from directing, controlling, or seizing investment, contracts, or infrastructure related to the Internet.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 22 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess			
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson			
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					

Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 7

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Guthrie, **No. 1h**, that exempts 5th generation wireless Internet services (5G) from open internet rules.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 22 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess			
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson			
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					
Rep. Barragan		X					

Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 8

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Walden, **No. 1i**, would, one year after the enactment of this Act, exempt from the enhanced transparency requirements in the FCC’s 2015 open internet order those ISPs with 250,000 customers or less, for a period of 6 years.

DISPOSITION: NOT AGREED TO by a roll call vote of 22 yeas to 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus			
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger			
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader	X			Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					

Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 9

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Johnson of Ohio, **No. 1j**, that adds a section exempting providers who build out to certain geographic areas that receive less than 25Mb/s download speed and 3 Mb/s upload speed from open Internet obligations.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 22 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger			
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Mr. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					

Rep. Kelly		X					
Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 10

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Bilirakis, **No. 1k**, that adds a section prohibiting the FCC from applying net neutrality rules to health care providers receiving USF support through the Rural Health Care Program.

DISPOSITION: NOT AGREED TO by a roll call vote of 22 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus			
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise			
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loebsack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					

Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 11

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment to the amendment in the nature of a substitute, offered by Mr. Walberg, No. **11**, that adds a section that exempts application of net neutrality rules to sponsored data plans.

DISPOSITION: **NOT AGREED TO** by a roll call vote of 24 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone		X		Rep. Walden	X		
Rep. Rush		X		Rep. Upton	X		
Rep. Eshoo		X		Rep. Shimkus	X		
Rep. Engel		X		Rep. Burgess	X		
Rep. DeGette		X		Rep. Scalise	X		
Rep. Doyle		X		Rep. Latta	X		
Rep. Schakowsky		X		Rep. Rodgers	X		
Rep. Butterfield		X		Rep. Guthrie	X		
Rep. Matsui		X		Rep. Olson	X		
Rep. Castor		X		Rep. McKinley	X		
Rep. Sarbanes		X		Rep. Kinzinger	X		
Rep. McNerney		X		Rep. Griffith	X		
Rep. Welch		X		Rep. Bilirakis	X		
Rep. Lujan		X		Rep. Johnson	X		
Rep. Tonko		X		Rep. Long	X		
Rep. Clarke		X		Rep. Buschon	X		
Rep. Loeb sack		X		Rep. Flores	X		
Rep. Schrader		X		Rep. Brooks	X		
Rep. Kennedy		X		Rep. Mullin	X		
Rep. Cardenas		X		Rep. Hudson	X		
Rep. Ruiz		X		Rep. Walberg	X		
Rep. Peters		X		Rep. Carter	X		
Rep. Dingell		X		Rep. Duncan	X		
Rep. Veasey		X		Rep. Gianforte	X		
Rep. Kuster		X					
Rep. Kelly		X					

Rep. Barragan		X					
Rep. McEachin							
Rep. Blunt Rochester		X					
Rep. Soto		X					
Rep. O'Halleran		X					

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 12

BILL: H.R. 1644, the “Save the Internet Act of 2019”

AMENDMENT: An amendment in the nature of a substitute, offered by Mr. Doyle, **No. 1**, editing definitions to clarify the bill makes permanent the rules and legal interpretations set forth by the Commission in the 2015 Order and Declaratory Ruling as they were in effect on January 19, 2017.

DISPOSITION: **AGREED TO** by a roll call vote of 30 yeas to 22 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus			
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger		X	
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long		X	
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin			
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						

Rep. Kelly	X						
Rep. Barragan	X						
Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O'Halleran	X						

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COMMITTEE ON ENERGY AND COMMERCE – 116th CONGRESS
ROLL CALL VOTE # 13

BILL: H.R. 1644, the “Save the Internet Act of 2019”

MOTION: A motion by Mr. Pallone to order H.R. 1644 favorably reported to the House, amended.
(Final Passage)

DISPOSITION: **AGREED TO** by a roll call vote of 30 yeas to 22 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Rep. Pallone	X			Rep. Walden		X	
Rep. Rush	X			Rep. Upton		X	
Rep. Eshoo	X			Rep. Shimkus			
Rep. Engel	X			Rep. Burgess		X	
Rep. DeGette	X			Rep. Scalise		X	
Rep. Doyle	X			Rep. Latta		X	
Rep. Schakowsky	X			Rep. Rodgers		X	
Rep. Butterfield	X			Rep. Guthrie		X	
Rep. Matsui	X			Rep. Olson		X	
Rep. Castor	X			Rep. McKinley		X	
Rep. Sarbanes	X			Rep. Kinzinger		X	
Rep. McNerney	X			Rep. Griffith		X	
Rep. Welch	X			Rep. Bilirakis		X	
Rep. Lujan	X			Rep. Johnson		X	
Rep. Tonko	X			Rep. Long		X	
Rep. Clarke	X			Rep. Buschon		X	
Rep. Loeb sack	X			Rep. Flores		X	
Rep. Schrader	X			Rep. Brooks		X	
Rep. Kennedy	X			Rep. Mullin			
Rep. Cardenas	X			Rep. Hudson		X	
Rep. Ruiz	X			Rep. Walberg		X	
Rep. Peters	X			Rep. Carter		X	
Rep. Dingell	X			Rep. Duncan		X	
Rep. Veasey	X			Rep. Gianforte		X	
Rep. Kuster	X						
Rep. Kelly	X						
Rep. Barragan	X						

Rep. McEachin							
Rep. Blunt Rochester	X						
Rep. Soto	X						
Rep. O'Halleran	X						

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OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portion of the report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to restore the Report and Order on Remand, Declaration Ruling, and Order in the matter of protecting and promoting the open internet that was adopted by the FCC on February 26, 2015, such that the FCC may not revisit or otherwise modify such Report and Order on Remand, Declaration Ruling, and Order.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 1644 is known to be duplicative of another Federal program, including

any program that was included in a report to Congress pursuant to section 21 of Public Law 111-139 or the most recent Catalog of Federal Domestic Assistance.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 1644 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of Contents

Section 1 designates that the short title may be cited as the “Save the Internet Act”.

Section 2. Restoration of Open Internet Order

Paragraph (a) of this section repeals and renders without effect the Declaratory Ruling, Report and Order, and Order in the matter of restoring internet freedom that was adopted by the Federal Communications Commission (FCC) on December 14, 2017. This section also prohibits the FCC from reissuing in substantially the same form a new rule that is substantially the same as those repealed in this section.

The Committee intends this section to prohibit the FCC from repealing, in whole or in part, any rule repealed by the Declaratory

Ruling, Report and Order, and Order in the matter of restoring internet freedom that was adopted by the Federal Communications Commission (FCC) on December 14, 2017.

Paragraph (b) of this section restores as in effect on January 19, 2017, the Report and Order on Remand, Declaratory Ruling, and Order in the matter of protecting and promoting the open internet that was adopted by the FCC on February 26, 2015. This section also restores as in effect on January 19, 2017, Part 8 of Title 47 of the Code of Federal Regulations, and any other rule of the Commission that was amended or repealed by the Declaratory Ruling, Report and Order, and Order described here.

Paragraph (c)(1) of this section defines the term “Commission” to mean the Federal Communications Commission.

Paragraph (c)(2) of this section defines the term “restored as in effect on January 19, 2017,” as permanently reinstating the rules and legal interpretations from the Declaratory Ruling and Order referenced in section 2(b)(1) as they were in effect on January 19, 2017, including any decision to apply or forbear from applying a provision of the Communications Act of 1934 or a regulation of the Commission. This definition does not apply to the Report and Order on Remand described in section 2(b)(1).

The Committee intends that paragraph(c)(2) would have the effect of permanently prohibiting the Commission from reversing any decision within the Declaratory Ruling and Order to apply or forbear from applying a provision of the Communications Act of 1934 or a regulation of the Commission, as such decisions to apply or forbear from applying were in effect on January 19, 2017. The Committee intends to permanently prohibit reversal of such decisions even if the Commission stated in such Declaratory Ruling and Order that it was only forbearing at this time, for now, or pending some other action.

Notably, paragraph(c)(2) does not limit in anyway the Report and Order on Remand, and therefore, the Committee intends that the FCC should retain the authority to adopt rules as appropriate to effectuate the provisions of the Communications Act of 1934 applied in the Declaratory Ruling and Order, consistent with applicable law.

Paragraph (c) of this section defines the term “rule” to have the meaning given the term in section 804 of Title 5 of the United States Code.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes in existing law made by the bill H.R. 1644.

DISSENTING VIEWS
[From Reps. Walden and Latta]

Dissenting Views signed by:

- (1) Rep. Greg Walden, Ranking Member of the full Committee on Energy and Commerce; and
- (2) Rep. Robert E. Latta, Ranking Member of the Subcommittee on Communications and Technology.

DISSENTING VIEWS TO H.R. 1644

As Chairman Pallone astutely noted, H.R. 1644 is not necessary to preserve a free and open internet.¹ The internet grew to become the single most important driver of economic growth, job creation, and a better quality of life for all Americans before the FCC imposed heavy-handed Title II regulations on ISPs in 2015. The FCC's 2015 Order, under the direction of President Obama, was a sharp but brief detour from years of bipartisan consensus that the internet should be regulated as an "information service" under Title I.²

In the two years of the Obama FCC's Title II regulations, broadband network investment declined by over \$3 billion—or more than 5 percent.³ This was the first such decline outside of a recession in the internet era and was due, in large part, to the uncertainty Title II imposed on ISPs. In addition to impairing investment, Title II hindered innovation under the FCC's amorphous general conduct standard.⁴

When the FCC repealed the heavy-handed rules in 2017 as part of the Restoring Internet Freedom Order, the FCC restored certainty for ISPs and consumers alike, and investment in broadband rebounded.⁵ The repeal also did not adversely affect low-income consumers or people with disabilities. Universal Service support for broadband and functional equivalent services protections were in place before the 2015 Order, and continue to be after its repeal.⁶

¹ Letter from the Honorable Frank Pallone to Julius Genachowski, Chairman, FCC (May 28, 2010) ("Classifying broadband Internet access services as telecommunications services that are subject to the provisions of Title II of the Communications Act may have far reaching implications. In fact, I am concerned that a near-term effect of your announced proposal to (re)classify these services is to create uncertainty - something that is sure to adversely affect investment decisions and job creation, both of which are in short supply right now.")

² See, e.g., A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs, United States Senate, Senator Ron Johnson, Chairman, *Regulating the Internet: How the White House Bowled Over FCC Independence* (Feb. 27, 2016), <https://www.hsgac.senate.gov/download/regulating-the-internet-how-the-white-house-bowled-over-fcc-independence>; Restoring Internet Freedom Order at ¶¶ 6-19.

³ Patrick Brogan, *U.S. Broadband Investment Rebounded in 2017*, US Telecom Research Brief (Oct. 18, 2018), <https://www.ustelecom.org/wp-content/uploads/2018/12/USTelecom-Research-Brief-Capex-2017.pdf>.

⁴ 2015 Order at ¶ 138 ("Below we discuss a *non-exhaustive* list of factors we will use to assess such practices") (emphasis added).

⁵ Patrick Brogan, *Broadband Investment in 2018 Continues Upswing*, US Telecom (Feb. 7, 2019), <https://www.ustelecom.org/broadband-investment-in-2018-continues-on-upswing/>.

⁶ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (modernizing the universal service system to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation); *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, 15 FCC Rcd 5140 (establishing funding from the telecommunications relay service (TRS) fund for intrastate and interstate video relay service (VRS) calls); *Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Declaratory Ruling, 22 FCC Rcd 379 (Dec. 20, 2006) (clarifying that Internet Protocol (IP) captioned telephone relay service is a type of telecommunications relay service eligible for compensation from the Interstate TRS Fund).

H.R. 1644 does not “codify” the FCC’s Open Internet Order. In re-imposing Title II, H.R. 1644 gives the FCC near unlimited authority to regulate the internet; from decisions over content, to imposing taxes and fees for internet access. This is because the plain language of H.R. 1644 does not abrogate the FCC’s authority to revisit prior forbearance determinations, including those made in the 2015 Order.⁷ Even if a reviewing court found that the language prohibits the FCC from reversing past forbearance decisions, it does not prevent the FCC from imposing substantially similar regulations under the sweeping Title II authority. This means that the FCC could impose rate regulations on broadband or impose content restrictions under areas of Title II that the FCC did not forbear from in its 2015 Order. Further, there is no way to determine what exactly H.R. 1644 codifies. The 2015 Order, which H.R. 1644 claims to codify, indicates that the FCC forbore from the application of “over 700 Commission rules and regulations.”⁸ However, neither the 2015 Order nor H.R. 1644 list out those 700 provisions of law. Despite multiple requests from the Minority, the Majority refused to produce this list, so there is no way to know which regulations H.R. 1644 would immediately impose on ISPs, and which regulations it would not.

Rather than attempt to codify a 313-page Order written by unelected bureaucrats, the Committee should at least examine other bills introduced on this topic that address net neutrality without drastically expanding the government’s ability to regulate the Internet.⁹ In order to protect consumers from potential blocking, throttling, or paid prioritization by broadband providers, there is no need for legislation that allows the federal government to seize control over the internet with excessive regulations – which could slow down economic growth, destroy jobs, and stifle innovation. Instead, any legislation in this space must ensure the internet continues to flourish in order to help expand broadband access, bridge the digital divide, and realize the next wave of innovation.



Greg Walden
Republican Leader



Robert E. Latta
Republican Leader
Subcommittee on Communications
and Technology

⁷ Congressional Research Service, *Question Regarding H.R. 1644*, (April 2, 2019).

⁸ 2015 Order at ¶ 5.

⁹ See H.R. 1006, 116th Cong. (2019) (introduced by Rep. Robert E. Latta (OH-05)), H.R. 1096, 116th Cong. (2019) (introduced by Rep. Cathy McMorris Rodgers (WA-05)), and H.R. 1101, 116th Cong. (2019) (introduced by Rep. Greg Walden (OR-02)).